

**ATTORNEY'S DOCKET NUMBER: 2006517-0009 (Bacterial Delivery DIV1)**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Caplan et al.	Examiner:	Huynh
Serial No.:	10/728,051	Art Unit:	1644
Filing Date:	December 4, 2003	Conf. No.:	9832
Title:	MICROBIAL DELIVERY SYSTEM		

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Commissioner:

**NOTICE OF APPEAL TO BOARD UNDER 37 C.F.R. § 41.31**

Applicant hereby appeals the rejection of all pending claims in the above-referenced application. These claims have been twice rejected as required under 37 C.F.R. § 41.31(a)(1). The current rejection of these claims in the above-referenced case was mailed January 26, 2009. Applicant submits herewith a Petition for a three (3) month extension of time from April 26, 2009, up to and including July 26, 2009. Since July 26, 2009 fell on a Sunday, the next succeeding day which is not a Saturday, Sunday, or Federal holiday (*i.e.*, Monday, July 27, 2009) shall be considered timely under 37 C.F.R. § 1.7. Accordingly, Applicant respectfully submits that the present Notice of Appeal is timely submitted on Monday, July 27, 2009.

The extension fee of \$555.00 under 37 C.F.R. § 1.17(a) for a small entity and the Appeal fee of \$270.00 are being paid via the U.S. Patent and Trademark Office's Electronic Filing System's credit card payment option. Please charge any fees that are *necessary* to maintain pendency and/or protect the filing date of the present application to

our Deposit Account Number 03-1721, referencing Attorney's Docket Number 2006517-0009. To the extent that there are any discrepancies between what Applicant has paid with the filing of the present Application and what the USPTO believes is owed, Applicant respectfully requests that a Notice be issued explaining any such discrepancy.

Respectfully submitted,

/Katherine Nicole Clouse/  
Katherine Nicole Clouse, PhD  
Registration Number: 62,750

Choate, Hall & Stewart LLP  
Two International Place  
Boston, MA 02110  
t (617) 248-4903  
f (617) 502-5002  
nclouse@choate.com  
Date: July 27, 2009